

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES LUECKE,

Plaintiff,

v.

Case No. 05-C-403

**GENERAL ELECTRIC COMPANY,
SASHA NEUENSCHWANDER,**

Defendants.

DECISION AND ORDER

On March 9, 2006, James Luecke (“Luecke”) filed and served a Motion for Default Judgment. General Electric Company and Sasha Neuenschwander (collectively the “Defendants”) had until April 3, 2006, to respond to Luecke’s motion.¹

On March 23, 2006, the Defendants served Luecke with a copy of their proposed Notice of Motion and Motion for Sanctions under Federal Rule of Civil Procedure 11. The Defendants’ allege that Luecke’s Motion for Default Judgment has no evidentiary or legal support because: (1) Luecke bases his Motion for Default Judgment on a criminal statute, 18 U.S.C. § 1001, which does not provide a private cause of action; (2) Luecke also bases his

¹ Because Luecke served his motion upon the Defendants by mail, the Defendants had three additional days to file a response brief. Fed. R. Civ. P. 6(e).

claim on an old version of Federal Rule of Civil Procedure 26, which was subsequently modified; (3) there is no proper purpose for Luecke to file his motion as he previously withdrew the nearly identical claim; and (4) this Court has already denied his request for the documents he now seeks. Pursuant to Rule 11's safe-harbor provision, Luecke has twenty-one days to withdraw his Motion for Default Judgment before the Defendants can file their Motion for Sanctions. Fed. R. Civ. P. 11(c)(1)(A).

On the same day, March 23, 2006, the Defendants also filed and served a 7.4 Expedited Motion to stay the briefing and decision of the Motion for Default Judgment until after Luecke's twenty-one day safe-harbor period had expired. The Defendants contend that to allow continued briefing for the Motion for Default Judgment before Luecke has an opportunity to withdraw his motion, or until this Court decides whether to impose sanctions upon Luecke, would be a waste of the Defendants' and this Court's time and resources.

The problem with the Defendants' 7.4 Motion is that it was filed too late. Luecke had until April 3, 2006, to respond to the Defendants' 7.4 Motion,² which was the same day that the Defendants' response to Luecke's Motion for Default Judgment was due. The Court, therefore, could not stay the briefing of the Motion for Default Judgment because if it did, it would have done so without affording Luecke an opportunity to respond to the Defendants' 7.4 Motion.

² Because the Defendants served their 7.4 Motion by mail, Luecke had three additional days to respond. Fed. R. Civ. P. 6(e). In addition, because Civil Local Rule 7.4(b) required that Luecke respond in less than 11 days, the intermediate Saturday and Sunday are excluded in the computation. Fed. R. Civ. P. 6(a).

On March 31, 2006, the Defendants filed a response to Luecke's Motion for Default Judgment, thus rendering moot their request to stay the briefing of Luecke's motion. In addition, Luecke failed to file any response to the Defendant's 7.4 Motion. Accordingly, the Court will grant the Defendant's 7.4 Motion insofar as this Court will stay a decision of Luecke's Motion for Default Judgment until after Luecke's opportunity to withdraw his motion pursuant to Rule 11(c)(1)(A) has expired.

Finally, on April 3, 2006, Luecke filed a 7.4 Expedited Motion to stay the briefing and decision of the Defendant's 7.4 Motion, the Defendants' Notice of Motion and Motion for Sanctions, and the Defendants' Motion for Summary Judgment because "they are out of logical sequence." Luecke does not explain how the Defendants' motions are out of "logical sequence," and the Court fails to see how they are either. Thus, the Court will deny Luecke's 7.4 Motion. Luecke must either withdraw his Motion for Default Judgment or contend with the possibility that the Defendants will file a Motion for Sanctions against him. Furthermore, Luecke must timely respond to the Defendants' Motion for Summary Judgment.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

The Defendants' "7.4 Expedited Motion to Stay Decision and Briefing on Plaintiff's Motion for Default Judgment" (Docket No. 93) is **DENIED**, in part, and **GRANTED**, in part.

Luecke's 7.4 Expedited Motion (Docket No. 107) is **DENIED**.

Dated at Milwaukee, Wisconsin this 10th day of April, 2006.

BY THE COURT

s/ Rudolph T. Randa

**Hon. Rudolph T. Randa
Chief Judge**